

1 ERIC L. WESENBERG (State Bar No. 139696)  
2 SAM O'ROURKE (State Bar No. 205233)  
3 ORRICK, HERRINGTON & SUTCLIFFE LLP  
4 1000 Marsh Road  
Menlo Park CA 94025  
Telephone: (650) 614-7400  
Facsimile: (650) 614-7401

5 Attorneys for Defendant and Counterclaimant  
6 MICROSOFT CORPORATION

7 **RECEIVED**

8 **OCT 28 2002** UNITED STATES DISTRICT COURT

9 RICHARD W. WIEKING  
10 CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

11  
12 INTERTRUST TECHNOLOGIES  
13 CORPORATION, a Delaware corporation,

14 Plaintiff,

15 v.

16 MICROSOFT CORPORATION, a  
Washington corporation,

17 Defendant.

Case No. C 01-1640 SBA (MEJ)

**[PROPOSED] ORDER GRANTING,  
IN PART, MICROSOFT'S MOTION  
FOR A PARTIAL STAY**

18 AND RELATED CROSS-ACTION.  
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Defendant's Counsel are directed to serve this  
order upon all other parties in this actions.

1 Having considered Defendant Microsoft's Motion for Partial Stay, the supporting  
2 and opposing papers, the pleadings and papers on file with the Court, the evidence presented by  
3 counsel, oral argument by counsel, and good cause appearing therefor,

4 IT IS HEREBY ORDERED that Microsoft's motion is GRANTED, IN PART, AS  
5 FOLLOWS:

6 The parties have selected the following 12 claims for limited Markman claim  
7 construction and indefiniteness proceedings:

- 8       ▪ U.S. Patent No. 6,185,683 – claim 2
- 9       ▪ U.S. Patent No. 6,253,193 – claims 1, 11, 15, 19
- 10      ▪ U.S. Patent No. 5,920,861 – claim 58
- 11      ▪ U.S. Patent No. 5,892,900 – claim 155
- 12      ▪ U.S. Patent No. 5,982,891 – claim 1
- 13      ▪ U.S. Patent No. 5,917,912 – claims 8, 35
- 14      ▪ U.S. Patent No. 6,157,721 – claims 1, 34

15 The Court shall schedule the hearing on Microsoft's anticipated motion for partial  
16 summary judgment of indefiniteness (limited to all or some of these 12 claims) to coincide with  
17 the Markman hearing on these 12 claims.

18 All proceedings (including all discovery) unrelated to the claim construction and  
19 alleged indefiniteness of these 12 claims shall be stayed pending the Court's ruling on these  
20 issues.

21 The relatedness of discovery requests to the limited Markman and indefiniteness  
22 proceedings shall be construed broadly and both parties are ordered to make every effort to permit  
23 discovery, otherwise relevant and discoverable under the Civil Rules, that is colorably related to  
24 or likely to assist in developing issues affecting the claim construction and/or indefiniteness of the  
25 12 claims selected by the parties. For example, at the hearing counsel represented that they  
26 would not object to discovery directed to the use, by either party, of claim terms selected to be  
27 construed at the limited Markman hearing, as well as technical documents mentioning those claim  
28 terms. However, the failure to object to such discovery shall not be construed as an admission of

1 the admissibility or relevance of that material, nor shall it be considered a waiver of the right to  
2 contest its admissibility for any purpose.

3 This partial stay is granted pursuant to the Court's broad powers of case  
4 management, including the power to limit discovery to relevant subject matter and to adjust  
5 discovery as appropriate to each phase of litigation as set forth by the Federal Circuit in *Vivid*  
6 *Technologies, Inc. v. American Science & Engineering, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999),  
7 and pursuant to Federal Rules of Civil Procedure 16(b), (c); 26(b); 42(b).

8 Dated: 11-1, 2002

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10 The Honorable Sandra Brown Armstrong  
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1                   **DECLARATION OF SERVICE VIA ELECTRONIC MAIL AND U.S. MAIL**

2                   I am more than eighteen years old and not a party to this action. My place of  
3                   employment and business address is 1000 Marsh Road, Menlo Park, California 94025.

4                   On November 6, 2002, I served:

5                   **ORDER GRANTING, IN PART, MICROSOFT'S MOTION FOR A PARTIAL STAY**

6                   By transmitting a copy of the above-listed document(s) in PDF form via electronic mail Michael  
7                   H. Page at mhp@kvn.com, Steven H. Morrissett at steven.morrissett@finnegan.com,  
8                   Stephen E. Taylor at staylor@tcolaw.com and James E. Geringer at  
                  james.geringer@klarquist.com and also by placing true and correct copies of the above  
                  documents in an envelope addressed to:

9                   John W. Kecker, Esq.  
10                  Michael H. Page, Esq.  
11                  KEKER & VAN NEST, LLP  
12                  710 Sansome Street  
13                  San Francisco, California 94111  
14                  Tel. No. 415-391-5400  
15                  Fax No. 415-397-7188  
16                  Email: mhp@kvn.com

17                  Attorneys for Plaintiff INTERTRUST  
18                  TECHNOLOGIES CORPORATION

19                  Stephen E. Taylor, Esq.  
20                  TAYLOR & CO. LAW OFFICES  
21                  1050 Marina Village Parkway, Suite 101  
22                  Alameda, CA 94501  
23                  Tel. No. 510-865-9401  
24                  Fax No. 510-865-9408  
25                  Email: staylor@tcolaw.com

26                  Attorneys for Plaintiff  
27                  INTERTRUST TECHNOLOGIES  
28                  CORPORATION

                  Steven H. Morrissett, Esq.  
                  FINNEGAN, HENDERSON, FARABOW,  
                  GARRETT & DUNNER, LLP  
                  Stanford Research Park  
                  700 Hansen Way  
                  Palo Alto, California 94304-1016  
                  Tel. No. 650-849-6624  
                  Fax No. 650-849-6666  
                  Email: steven.morrissett@finnegan.com

                  Attorneys for Plaintiff  
                  INTERTRUST TECHNOLOGIES  
                  CORPORATION

                  John D. Vandenberg, Esq.  
                  James E. Geringer, Esq.  
                  KLARQUIST, SPARKMAN, LLP  
                  One World Trade Center  
                  121 S. W. Salmon Street, Suite 1600  
                  Portland, Oregon 97204  
                  Tel. No: 503-226-7391  
                  Fax No: 503-228-9446  
                  Email: james.geringer@klarquist.com

                  Attorneys for Defendant and Counterclaimant,  
                  MICROSOFT CORPORATION

                  and sealing the envelope, affixing adequate first-class postage and depositing it in the U.S. mail  
                  at Menlo Park, California.

                  Executed on November 6, 2002 at Menlo Park, California.

                  I declare under penalty of perjury that the foregoing is true and correct.

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ANNA FREDDIE